

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.) No. 4:04-CR-380 CAS
)
CHARLES EDWARD SHURN,)
)
Defendant.)

MEMORANDUM AND ORDER

This matter is before the Court on defendant Charles Shurn's second pro se Motion for Reduction of Sentence pursuant to 18 U.S.C. § 3582(c)(2) and Amendment 782 to the United States Sentencing Guidelines. The United States opposes the motion. For the following reasons the motion will be denied.

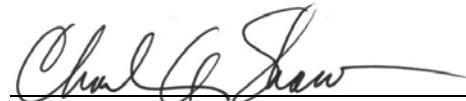
On October 6, 2005, defendant was sentenced to 240 months imprisonment and a six-year term of supervised release on the charge of possession with the intent to distribute heroin within 1,000 feet of a public or private elementary, vocational, or secondary school or playground, in violation of 21 U.S.C. § 841(a)(1) and 21 U.S.C. § 860(a). (Doc. 135)

On October 10, 2017, defendant filed his first Motion for Reduction of Sentence pursuant to 18 U.S.C. § 3582(c)(2) and Amendment 782 to the United States Sentencing Guidelines (the "Guidelines"). (Doc. 166) Amendment 782, effective November 1, 2014, lowered penalties for most drug offenses by reducing offense levels for charges under § 2D1.1 of the Drug Quantity Table. On November 3, 2017, the Court denied defendant's Motion for Reduction of Sentence, finding that he was not eligible for a sentence reduction pursuant to Amendment 782 because his offense level was determined on his Career Offender status, and not the Drug Quantity Table. (Docs. 170, 171)

The Court will deny defendant's instant motion for the same reasons his first motion was denied. Defendant was sentenced as a career offender under § 4B1.1 of the Guidelines, not § 2D1.1 of the Drug Quantity Table. Amendment 782 of the Guidelines modified the Drug Quantity Table. As a result, Amendment 782 does not provide a basis for the Court to reduce defendant's sentence in accordance with 18 U.S.C. § 3582(c)(2). See U.S.S.G. § 1B1.10, cmt. n.1(A); United States v. Thomas, 775 F.3d 982, 982-83 (8th Cir. 2014) (relief under 18 U.S.C. § 3582(c)(2) and Amendment 782 is not available to defendants who were sentenced under the career offender provision of the Guidelines).

Accordingly,

IT IS HEREBY ORDERED that defendant Charles Shurn's second pro se Motion for Reduction of Sentence pursuant to 18 U.S.C. § 3582(c)(2) and Amendment 782 to the United States Sentencing Guidelines is **DENIED**. [Doc. 172]



CHARLES A. SHAW
UNITED STATES DISTRICT JUDGE

Dated this 2nd day of April, 2019.